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SUBJECT: PROTECTING THE INTELLECTUAL PROPERTY RIGHTS OF SOVIET
AUTHORS IN LITHUANIA

¶1. Summary: A dispute over the right of Soviet-era artists to profit from their work has generated an intriguing dispute that threatens to damage a satirical amusement park cheekily referred to as "Stalin World." The case raises several interesting legal and moral questions and has helped raise awareness of intellectual property rights in Lithuania. End Summary.

"Stalin World" comes to Lithuania

¶2. Grutas Park is a tongue-in-cheek theme park of Soviet-era statues and memorabilia founded by Lithuanian entrepreneur Viliumas Malinauskas. Located just outside of Druskininkai (a spa town 120 km southwest of Vilnius), "Stalin World" -- a common nickname for the park -- features playgrounds, a mini-zoo, cafes, and an entrance guarded by actors dressed as KGB or military officers who pull random visitors out of the queue for mock interrogations. Established in 2000, Grutas Park has become a major tourist attraction.

Who owns tyranny's trash?

¶3. After Lithuania regained its independence in 1990, Lithuanian authorities removed most Soviet-era statues from their often-prominent locations and dumped them in different places around the country. Later, after seeing the success of Soviet-themed sculpture gardens in other former Eastern Bloc countries, Lithuanian entrepreneurs started contemplating similar parks in Lithuania. Malinauskas won a government-organized tender in 1998 to collect several dozen of the discarded sculptures to build a private museum, and he opened Grutas Park two years later.

¶4. Lithuania's Authors' Rights Protection Agency (LATGA), at the urging of seven Lithuanian artists who carved some of Grutas Park's sculptures during the Soviet occupation, began demanding royalties for these sculptors in December 2006. The fact that the sculptors created these works while under contract with the Soviet government, LATGA's director told the press, is irrelevant: "If a business is making a profit from displaying artwork, it has to pay fees to the artist." LATGA claims that Grutas Park needs to pay royalties of six percent of the income it receives from the thousands of people visiting the park every year.

¶5. Malinauskas refuses to pay, claiming that it is unfair for LATGA to demand royalties for items that the Lithuanian government essentially considered garbage at the time of the 1998 tender. (The tender agreement apparently did not address the issue of authors' rights.) In a press interview, Malinauskas said that the idea of paying royalties on works commissioned by an occupying power was "absurd," arguing that LATGA was demanding payment for "stone idols that were used to serve an occupying regime and terrorize people's minds for 50 years."

¶16. One sculptor whose Soviet-era creations are on display at Grutas Parkas (but is not part of the group demanding royalties) sided with the park, but told us that the current legal situation is unclear. He said that sculptors hired by the Soviet Government signed a contract that gave them not only a one-time payment on delivery for their creations, but included guarantees for royalties, for example, if their works were photographed and shown in magazines. When Lithuania gained independence, he said, the new government both created new laws and simply transferred others from the Soviet system. The new Lithuanian government did not, however, transfer Soviet-era IPR laws, nor did it create laws that addressed Soviet-era art. He told us that he thinks it is inappropriate for the artists who once sold their works to the Soviet government to request royalties today.

Take them back, if they're so important

¶17. Protesting against LATGA's claims, Malinauskas first turned off the broadcast of Soviet anthems in the park so the Soviet-era songwriters and recording artists could not claim royalties for his broadcast of their work. He then removed the statues created by the seven protesting sculptors, placing them outside the park's fence, telling the sculptors that they were free to come claim their work if they wished. To date, none has.

Comment

¶18. This dispute is unlikely to reach resolution anytime soon. Even setting aside the difficult moral questions associated with those who worked for the Soviet regime, the case is difficult because it

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raises complex legal issues that lawyers will battle out in the months to come. Beyond the specifics of this case, however, this dispute is important because it has brought a public discussion about the importance of IPR protection to the front pages of Lithuania's national newspapers. Only a few years ago, few Lithuanians would have understood what all the fuss was about, and LATGA probably would not have risked taking such a public stand on such a politically charged issue. Now, public awareness of IPR protection has matured to the point where people are considering the issue as a point of law, and more than a few are willing to argue publicly that even artists that worked for the hated Soviet regime have rights, too.

KELLY